finding, as regards her, that Tan Choon had the necessary guilty knowledge.

As regards the Hokkien woman, she had never been to this lodging house before and was a stranger to Kuala Lumpur. No doubt Tan Choon gave false evidence when he stated that he asked her and her companion if they were married; but there was nothing to indicate to Tan Choon that she was a prostitute. She was with a man of her own race and it was, as stated before, the first time she had been to these premises.

In view of the above I do not think there was sufficient evidence to substantiate the charge. The appeal is allowed and the conviction set aside. The fine of $75/- which has been paid will be refunded to the appellant.

Appeal allowed.

[APPELLATE CRIMINAL JURISDICTION]

POYSER, C.J.

February 12, 1940.

INDER SINGH v. PUBLIC PROSECUTOR.

[SELANGOR MAGISTRATE'S CRIMINAL APPEAL No. 81 of 1939]

Penal Code, S. 177—furnishing false information —statement made to a police officer investigating a case—Criminal Procedure Code, S. 112 (ii).

To sustain a conviction of making false statements to a police officer, it is not necessary to prove that the statement of the accused person recorded under S. 112 (ii) of the Criminal Procedure Code was made in answer to questions put to him by the investigating officer. It is sufficient if such false statement is substantially an answer to one or more questions addressed to the witness before the statement is made.

Cases referred to:—

(1) *Empress v. Baikanta Bauri,* I.L.R. 16 Cal. 349.

(2) *Queen Empress v. Bhagwantia,* I.L.R. 15 All. 12.

MAGISTRATE'S CRIMINAL APPEAL.

Joaquim for Appellant.

Grattan-Bellew for Public Prosecutor.

Poyser, C.J.—The appellant was charged with the following offence:—

> "That you on 19.8.39 at 10 a.m. at Campbell Road Police Station being legally bound to furnish information on the subject of alleged acceptance of illegal gratification by a Pathan Sergeant at Central Workshop furnished information to wit "I have never seen this document (2) before. I have never seen a draft of it. I had nothing to do with the petition nor did I cause it to be written and sent" which you knew to be false, and the information which you were bound to give was in respect of the apprehension of an offender and thereby committed an offence punishable under section 177 Penal Code, Cap. 45."

The evidence was as follows. The Police received an anonymous letter (P2.) in which it was alleged that a sergeant in the police force was accepting bribes. As a result of such allegations Mr. Elphinstone, a police officer, received directions from the Deputy Public Prosecutor (P4.) to investigate the offences that were alleged to have been committed. Mr. Elphinstone compared the letter P2. with other communications he had received, and came to the conclusion that P2. was typed by the witness Kanagasapai, a petition writer. He then interviewed Kanagasapai and, in consequence of what the latter said, called the appellant to his office and asked him if he had sent P2. The appellant then made the statement set out in the charge.

Kanagasapai gave evidence, and stated that he typed P2. on the appellant's instructions and was paid for so doing. The appellant gave evidence, and again denied having anything to do with P2. The Magistrate believed Kanagasapai, stating that he was impressed by the straightforward way he gave his evidence, and accordingly convicted the appellant.

On appeal it was argued that the provision of law creating a legal obligation to state the truth must be strictly construed, and the case of *Empress v. Baikanta Bauri,*[1] was cited.

It was there held that before a conviction can be sustained of making false statements to a police officer, it must be proved that such statements were made in answer to questions put to the accused by an investigating officer. This case, however, does not appear to have been followed in all the Indian Courts for, in the case of *Queen Empress v. Bhagwantia,*[2] the Court held:—

> "It is sufficient if such false statement is substantially an answer to one or more questions addressed to the witness before the statement is made.

I prefer to follow the latter decision, and it is quite obvious in this case (the point not being raised in the Magistrate's Court) that the false statement which the appellant was alleged to have made was made in answer to one or more questions put to him by Mr. Elphinstone, and such questions he was legally bound to answer truly (section 112 (ii) Criminal Procedure Code).

Mr. Joaquim, however, further argued that if I would not follow *Empress v. Baikanta Bauri,*[1] the Magistrate should not have convicted the appellant on the uncorroborated evidence of Kanagasapai. In this connection he referred to *Woodroffe and Ameer Ali* on Evidence, 9th edition, page 962. I agree with the principles therein set out that Courts should, as a rule, be careful to accept the testimony of a single witness in regard to the proof of any fact although the law permits them to do so, but in this case the Magistrate was convinced as to the truth of Kanagasapai's evidence, and that being the case, he was right in convicting the appellant, and that a conviction in such a case can be recorded is recognised in the text-book above referred to.

I see no grounds for setting aside the conviction, and the appeal is dismissed.

Appeal dismissed.

[ORIGINAL CIVIL JURISDICTION]

POYSER, C.J.

May 9, 1939.

ALICE ANG ETC.

v.

MRS. LAU EK CHENG & 2 OTHERS.

[SELANGOR CIVIL SUIT No. 183 of 1938]

Road accident—driving of motor car without owner's permission—negligence—whether owner liable.

The plaintiff, a dancing hostess, sued the defendants for damages for injuries sustained by her in a motor car accident. On the 23rd August 1938 the plaintiff was travelling in a car belonging to the 1st defendant on the invitation of the 2nd defendant. At the time of the accident the car was driven by the 2nd defendant. The 3rd defendant, who was in the car at the material time, was a nephew of the 1st defendant and he was a minor. The evidence established that the 2nd defendant's driving was grossly negligent and that the plaintiff came by those injuries as a result of such negligent driving. There was no evidence that the 1st defendant authorised the 2nd defendant or anyone else to drive, or permitted the use of the car in driving, the plaintiff from the scene of her labours to her home, or that the car was lent to the 3rd defendant who did not object to the 2nd defendant driving the car.

Held, that the 2nd defendant was liable in damages for his negligent driving.

Held further, that the 1st defendant was not liable for the 2nd defendant's negligence inasmuch as she had never permitted the 2nd defendant to use her car and that the 3rd defendant was also not liable under any implied contract as was pleaded in this case, for, as a minor he was not competent to contract.

Cases referred to:—

(1) *Daniels v. Vaux,* (1938) 2 All E.R. 271; (1938) 2 K.B. 203.

(2) *Engleheart v. Farrant & Co.,* (1897) 1 Q.B.D. 240.

(3) *Lankat bin Rantau v. Yew Lee Low,* 6 F.M.S.L.R. 146.

(4) *Monk v. Warbey,* (1935) 1 K.B. 75.

(5) *Parker v. Miller,* 42 T.L.R. 408.

(6) *Raja Singh v. Chin Fatt,* (1936) F.M.S.L.R. 15; (1936) 5 M.L.J. 157.

(7) *Reichardt v. Shard,* 31 T.L.R. 24.

TRIAL OF SUIT.

Joaquim (*Cumarasami* with him) for the plaintiff.

Hastings for 1st and 3rd Defendants.

Second defendant in person.

Joaquim for the plaintiff cited *Parker v. Miller*[5], *Reichardt v. Shard,*[7], *Engleheart v. Farrant & Co.*[2], *Daniels v. Vaux*[1] and *Monk v. Warbey,*[4].

Hastings for the 1st and 3rd Defendants:—On the facts proved there is no case in law against either the first or the third defendant.

As regards first defendant—on the facts either there was a bailment of the car from the first defendant to the third defendant. If that is the fact first defendant not liable during continuance of bailment.

Daniels v. Vaux[1].

If there was not a bailment a suit does not lie against a passenger *i.e.* third defendant.

The principle that bailor not liable followed in this country.

Lankat bin Rantau v. Yew Lee Low,[3].

Raja Singh v. Chin Fatt,[6].

(Joaquim—I do not contend that there was a bailment in this case).

Then the case rests on (2) Agency. No evidence that third defendant was agent of the first defendant. No evidence that first defendant authorised either second or third defendant to drive or deal with car. They are both trespassers and would be liable to first defendant for wrongful conversion of the car.

The only other way on which first defendant can be liable is on the principle of *Monk v. Warbey,*[4].